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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,480	01/27/2004	Donald Reichard	7237.3001.001	9525

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EXAMINER

LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/765,480	Applicant(s) REICHARD, DONALD	
	Examiner M. Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/23/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Item 66 (bell crank assembly) is not on the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: Paragraph [0024] calls item 144 both an "actuator rod" and "a brake lock plate".

Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: line 8 states "an operable" instead of "and operable". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the primary frame" in line 18. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed applicant meant "the power unit frame" instead.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bell (US 5,282,515).

Re claim 1, Bell teaches a boat trailer tug comprising:
a primary collar (various unlabeled items in figure 1 apply), a mounting beam 12 fixed to the primary collar and extending to the rear of the primary collar, a hitch tongue 50 connected to the primary collar and extending forward from the primary collar, a hitch

assembly component 52 attached to a hitch tongue forward end, and a mast 14 connected to the primary collar;
a vertical height adjustment frame 15 attached to the mast 14 and an actuator 16 connected to the vertical height adjustment frame and operable to move the vertical height adjustment frame generally vertically relative to the primary collar;
a power unit frame (not numbered) connected to the vertical height adjustment frame, a motor 22 mounted on the power unit frame, at least one tire and wheel 20 journaled on the power unit frame for rotation about a generally horizontal axis, and driven by the motor 22; and
a steering assembly (top of 15) mounted on the frame and connected to the at least one tire and wheel 20 and operable to pivot the at least one tire and wheel about a generally vertical axis to change the direction of movement of said boat trailer tug.

Re claim 2, Bell teaches the mast 14 connected to the primary collar includes at least one generally vertical mast beam (sides of 14) and wherein the vertical height adjustment frame 15 is slidably connected to the at least one generally vertical mast beam.

Re claim 4, Bell teaches the power unit frame pivotally connected to the vertical height adjustment frame 15 for pivotal movement about a generally vertical axis.

Re claim 5, Bell teaches the steering assembly (top of 15) pivots the power unit frame about the generally vertical axis.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjorklund (US 3,568,624) in view of Fraser (US 4,915,577).

Re claim 1, Bjorklund teaches a boat trailer tug comprising:
a primary collar (any one of 18,26,28 or 76 meet this limitation), a mounting beam (54,55,etc.) fixed to the primary collar and extending to the rear of the primary collar, a hitch tongue (tow bar, column 4, lines 10-11) connected to the primary collar and extending forward from the primary collar, a hitch assembly component (tow bar, column 4, lines 10-11) attached to a hitch tongue forward end, and a mast 18 (or 76,etc.) connected to the primary collar;
a power unit frame connected to a vertical frame, a motor 16 mounted on the power unit frame, at least one tire and wheel 38,40 journaled on the power unit frame for rotation about a generally horizontal axis, and driven by the motor 16; and
a steering assembly 48 mounted on the frame and connected to the at least one tire and wheel 38,40 and operable to pivot the at least one tire and wheel about a generally vertical axis to change the direction of movement of said boat trailer tug.

Bjorklund does not teach vertical height adjustment. Fraser teaches a vertical height adjustment frame attached to a mast 17 and an actuator 20 connected to the vertical height adjustment frame an operable to move the vertical height adjustment

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frame generally vertically relative to a primary collar (various, such as 22 or 36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bjorklund by the general teaching of Fraser to have a vertical height adjustment frame attached to the mast and an actuator connected to the vertical height adjustment frame an operable to move the vertical height adjustment frame generally vertically relative to the primary collar in order to help load or unload the trailer.

Re claim 2, Bjorklund as already modified by Fraser teaches the mast connected to the primary collar includes at least one generally vertical mast beam 15 and wherein the vertical height adjustment frame is slidably connected (at least slidably rotatably) to the at least one generally vertical mast beam.

Re claim 3, Bjorklund as already modified by Fraser teaches the actuator 20 connected to the vertical height adjustment frame is a linear actuator 20 that is also connected to the primary collar.

Re claim 4, Bjorklund as already modified by Fraser teaches the power unit frame is pivotally connected to the vertical height adjustment frame for pivotal movement about a generally vertical axis.

Re claim 5, Bjorklund teaches the steering assembly 48 pivots the power unit frame about the generally vertical axis.

Claims 1,2,4,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjorklund (US 3,568,624) in view of Bell (US 5,282,515).

Re claim 1, Bjorklund teaches a boat trailer tug comprising:
a primary collar (any one of 18,26,28 or 76 meet this limitation), a mounting beam (54,55,etc.) fixed to the primary collar and extending to the rear of the primary collar, a hitch tongue (tow bar, column 4, lines 10-11) connected to the primary collar and extending forward from the primary collar, a hitch assembly component (tow bar, column 4, lines 10-11) attached to a hitch tongue forward end, and a mast 18 (or 76,etc.) connected to the primary collar;
a power unit frame connected to a vertical frame, a motor 16 mounted on the power unit frame, at least one tire and wheel 38,40 journaled on the power unit frame for rotation about a generally horizontal axis, and driven by the motor 16; and
a steering assembly 48 mounted on the frame and connected to the at least one tire and wheel 38,40 and operable to pivot the at least one tire and wheel about a generally vertical axis to change the direction of movement of said boat trailer tug.

Bjorklund does not teach vertical height adjustment. Bell teaches a vertical height adjustment frame attached to a mast 15 and an actuator 16 connected to the vertical height adjustment frame an operable to move the vertical height adjustment frame generally vertically relative to a primary collar (various unlabeled items in figure 1 apply). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bjorklund by the general teaching of Bell to have a vertical height adjustment frame attached to the mast and an actuator connected to the vertical height adjustment frame an operable to move the vertical height adjustment

frame generally vertically relative to the primary collar in order to help load or unload the trailer.

Re claim 2, Bjorklund as already modified by Bell teaches the mast connected to the primary collar includes at least one generally vertical mast beam 15 and wherein the vertical height adjustment frame is slidably connected to the at least one generally vertical mast beam.

Re claim 4, Bjorklund as already modified by Bell teaches the power unit frame is pivotally connected to the vertical height adjustment frame for pivotal movement about a generally vertical axis.

Re claim 5, Bjorklund teaches the steering assembly 48 pivots the power unit frame about the generally vertical axis.

Claims 3,6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (US 5,282,515) in view of Fraser (US 4,915,577).

Re claims 3,6, Bell teaches a boat trailer tug comprising:
a primary collar (various unlabeled items in figure 1 apply), a mounting beam 12 fixed to the primary collar, extending to the rear of the primary collar and connectable to a boat trailer, a hitch tongue 50 connected to the primary collar and extending forward from the primary collar, and a hitch assembly component 52 attached to a hitch tongue forward end;
a primary mast 14 including a primary front vertical member (a side of 14) with a front member lower end fixed to the primary collar, a primary rear vertical member (a side of

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14) with a rear member lower end fixed to the primary collar, and a primary horizontal beam (a horizontal member of 14) fixed to a primary front vertical member upper end and a primary rear vertical member upper end;

a vertical height adjustment frame 15 slidably attached to the primary front vertical member and the primary rear vertical member of the primary mast 14;

an actuator 16 connected to the primary collar and to the vertical height adjustment frame to slide the vertical height adjustment frame relative to the primary mast;

a power unit frame (not numbered) pivotally connected to the vertical height adjustment frame for pivotal movement about a generally vertical axis, a motor 22 mounted on the power unit frame, at least one tire and wheel 20 journaled on the power unit frame for rotation about a generally horizontal axis and driven by the motor 22; and

a steering assembly (top of 15) connected to the power unit frame for pivoting the power unit frame about the generally vertical axis relative to the vertical height adjustment frame.

Bell does not teach the actuator 16 being a linear actuator. However, Fraser teaches that linear actuators 20 are known to be used for vertical height adjustment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bell by the general teaching of Fraser to use a linear type actuator as an well known equivalent and to reduce the amount of work done by the operator.

Re claim 7, Bell as already modified by Fraser teaches the linear actuator connected to the vertical height adjustment frame through a bell crank that is pivotally attached to the primary mast.

Re claim 8, Bell teaches an operator's seat (structure above items 24 and 26) mounted on the primary collar.

Re claim 9, Bell teaches the vertical height adjustment frame 15 includes a ring member (not numbered, see figure 1) that is smaller than the primary collar and could pass through the primary collar.

Allowable Subject Matter

Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Krause (US 6,575,487) teaches a similar device.

Jeanson (US 4,586,725) teaches a similar device.

Chase (US 4,538,952) teaches a similar device.

Chadwick (US 4,417,841) teaches a similar device.

Becker (US 3,817,401) teaches a similar device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msl

A handwritten signature in black ink, appearing to be 'PM' with a stylized flourish.

**PATRICK MACKEY
PRIMARY EXAMINER**